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Robert Paul Linse

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EXAMINER

PLUMMER, ELIZABETH A

ART UNIT

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3635

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DELIVERY MODE

12/10/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/821,873

Applicant(s)

LINSE, ROBERT PAUL

Examiner

Elizabeth A. Plummer

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 12-14, 16-24, 28 and 30-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 12-14, 16-24, 28 and 30-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 03/08/2007.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Applicant's amendments and arguments received 09/10/2007 have entered and considered. Claims 9-11, 15, 25-27, and 29 have been canceled. Claims 30-32 have been added. An examination of pending claims 1-8, 12-14, 16-24, 28 and 30-32 is herein presented.

Claim Objections

Claims 1-8 and 12-14 are objected to because of the following informalities: Regarding claim 1, the language between the preamble and portions of the body of the claim are inconsistent. For example, the preamble of claim 1 sets for the subcombination "support assembly"; however, lines 8-9 recite "the common vertical plane being substantially parallel to a factory built building being supported" which sets forth a positive relationship between the support assembly and the factory built building and thus appears to claim a combination. Clarification is required. For purposes of examination, this claim is being treated as a subcombination.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1, 7 and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Chezum (US Publication 2004/0006936).

a. Regarding claim 1, Chezum discloses a support assembly for supporting a factory built building (Fig. 1), said support assembly comprising a footing member (22), a base (52) having a first portion (downward arm) engaging the footing member (Fig. 5), a plurality of support members (32, 30) secured to said base (via 66,68), said support members extending from said base such that each of said support members defining said supporting assembly extend within a common vertical plane (can be drawn perpendicularly through 30,32), the common vertical plane being substantially parallel to a factory built building being supported (Fig. 1), and a member operatively secured to said support members for connecting to a portion of a building (5).

b. Regarding claim 7, the base has a first portion (vertical arm) for being positioned within a footing and a second portion (horizontal arm) for extending over an outer surface (top surface) of the footing.

c. Regarding claim 8, the base has a substantially L-shaped cross section.

2. Claims 1 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Commins (US Patent 5,666,774).

a. Regarding claim 1, Commins discloses a support assembly (1) (Fig. 3) for supporting a factory built building, said support assembly comprising a footing member (2), a base (6) having a first portion (8) for engaging the footing member

(Fig. 3,4), a plurality of support members (16,17) secured to said base, said support members extending from said base such that each of said support members defining said supporting assembly extend within a common vertical plane (plane can be drawn perpendicular through both of the members), the common vertical plan being capable of being substantially parallel to a factory built building being supported, and a member (4) operatively secured to said support members for connecting a portion of a building.

b. Regarding claim 14, the support assembly includes only two support members (Fig. 3,4).

2. Claims 1, 7, 8, 16 and 24 rejected under 35 U.S.C. 102(b) as being anticipated by Fisher (US Patent 4,010,617).

a. Regarding claim 1, Fisher discloses a support assembly capable of supporting a factory build building, comprising a footing (4b) and a base (11) having a first portion capable of engaging a footing member (40) (Fig. 1,2), a plurality of support members (1) secured to the base, said support members extending from the base such that each of the support members defining the supporting assembly extend within a common vertical plane when the support assembly is vertically positioned, the common vertical plane capable of being substantially parallel to a factory built building being support and the assembly is capable of supporting a building (Fig. 1,2), and a member (opposite 11) operatively secured to the support members (Fig. 1) and capable of connecting to a portion of a building.

- b. Regarding claim 7, the base has a first portion (13) capable of being positioned within a footing and a second portion (11c) capable of extending over an outer surface of a footing (4b) (Fig. 2,4,5).
- c. Regarding claim 8, the base has a substantially L-shaped cross section (Fig. 2,3 4,5,6,7).
- d. Regarding claim 16, Fisher discloses a system capable of supporting a factory build building, the system comprising a support assembly comprising a support standing including a base (11) and a footing (4b), the base having a first elongated portion (13) extending into a channel in the footing (Fig. 5) and a second elongated portion (11c) extending at an angle to the first portion and capable of being outside the channel of the footing (Fig. 5), and a plurality of support members (11) secured to the base (Fig. 3), the support members converging toward each other along their length (Fig. 5).
- e. Regarding claim 24, the base has a substantially L-shaped cross section (Fig. 5).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-7, 12-13, 16-23, 28 and 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyares et al. (4,937,989) in view of Thomas et al. (US Patent 5,363,610).

a. Regarding claim 1, Miyares et al. discloses a support assembly for supporting a factory built building, comprising a base (24) (Fig. 1), a plurality of support members (23) secured to the base, said support members extending from the base such that each of the support members defining the supporting assembly extend within a common vertical plane (any vertical plane through the apex of the support members) when the support assembly is vertically positioned to support a beam (30) (Fig. 1), the common vertical plane capable of being substantially parallel to a factory built building being supported, and a member (9) operatively secured to the support members (Fig. 1) and capable of connecting to a portion of a building. Miyares et al. does not disclose that the base has a first portion engaging a footing member. However, it is notoriously well known in the art of support systems that a support assembly can comprise a footing member and that the base can have a first portion engaging the footing member. For example, Thomas et al. teaches a support assembly (22) for supporting a factor built building (column 3, lines 60-63), said support assembly comprising a footing member (24) and a base (44) having a first portion (54) having a first portion engaging a footing (Fig. 4) in order to more securely anchor the support assembly. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Miyares et al. to include a

footing and a base having a first portion for engaging a footing, such as taught by Thomas et al., in order to create a support assembly that can resist seismic forces and better support a factory built building.

b. Regarding claim 2, the support members (23) extend from the base at an angle relative to the base such that the support members converge toward each other along their length (Fig. 1).

c. Regarding claim 3, the support members include a first terminal end secured to the base (24) and a second terminal end secured to an apparatus (9,21,22) that receives said member (9) capable of connecting the support members to a building (Fig. 1).

d. Regarding claim 4, the support members include a first terminal end secured to the base (24) and a second terminal end secure to a vertically extending main support member (21) (Fig. 1).

e. Regarding claim 5, the main support member (21) is secured to an apparatus (9) capable of receiving the member for connecting the support members to a building (Fig. 1).

f. Regarding claim 6, the support members are formed of an angle shaped material (Fig. 1).

g. Regarding claim 7, Thomas et al. further teaches that the first portion (54) for being positioned within a footing and a second portion (48) for extending over an outer surface of the footing (Fig. 4).

- h. Regarding claim 12, the apparatus (9,21,22) comprises a bushing (22) and said member for connecting said support members to the building includes a threaded member (21) received within the bushing (Fig. 2).
- i. Regarding claim 13, a turnbuckle is secure between the support members (Fig. 1,2).
- j. Regarding claim 16, Miyares et al. discloses a system for supporting a factory built building, said system comprising a support assembly comprising a support stand including a base (24) (Fig. 1), a plurality of support members (23) extending from said base, said support members said support members converging toward each other along their length. Miyares et al. does not disclose a footing member and that the base has a first portion extending into a channel in the footing member and a second elongated portion extending at an angle to the first portion and outside the channel of the footing. However, it is notoriously well known in the art of support systems that a support assembly can comprise a footing member and that the base can have a first portion extending into a channel in the footing member and a second elongated portion extending at an angle to the first portion and outside the channel of the footing. For example, Thomas et al. teaches a support assembly (22) for supporting a factor built building (column 3, lines 60-63), said support assembly comprising a footing member (24) and a base (44) having a first portion (54) having a first portion extending into a channel (Fig. 4) in the footing (Fig. 4) and a second elongated portion (48) extending at an angle to the first portion and outside the channel of

the footing in order to more securely anchor the support assembly. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Miyares et al. to include a footing and a base having a first portion for extending into a channel in the footing and a second portion extending at an angle to the first portion and outside the channel of the footing, such as taught by Thomas et al., in order to create a support assembly that can resist seismic forces and better support a factory built building.

k. Regarding claim 17, the support members forming the support assembly extending a common vertical plane (at the apex) when said support assembly is supporting a factory built building.

l. Regarding claims 18 and 21, the support members include a first terminal end secured to the base (24) and a second terminal end secured to an apparatus (9,21,22) that receives said member (9) capable of connecting the support members to a building (Fig. 1).

m. Regarding claims 19, the apparatus (9,21,22) comprises a turnbuckle (22) and said member for connecting said support members to the building includes a threaded member (21) received within the turnbuckle (Fig. 2).

n. Regarding claim 20, a turnbuckle is secure between the support members (Fig. 1,2).

o. Regarding claim 22, the main support member (21) is secured to an apparatus (9) capable of receiving the member for connecting the support members to a building (Fig. 1).

- p. Regarding claim 23, the support members are formed of angle material (Fig. 1).
- q. Regarding claim 28, Miyares et al. in view of Thomas et al. discloses the invention as claimed except for the support assembly only including two support members. However, it would have been a matter of obvious design choice to use any number of support members, such as only two support members, as the reduction or duplication of the amount of support members would have no patentable significance unless a new and unexpected result is achieved.
- r. Regarding claim 30, Miyares et al. discloses a system for supporting a factory built building, said system comprising a support assembly comprising a support stand including a base (24) (Fig. 1), a plurality of support members (23) extending from said base in a common vertical plane (through the apex), the common vertical plane being capable of being substantially perpendicular to the base, said support members said support members converging toward each other along their length. Miyares et al. does not disclose a footing member and that the base has a first portion extending into a channel in the footing member and a second elongated portion extending at an angle to the first portion and outside the channel of the footing. However, it is notoriously well known in the art of support systems that a support assembly can comprise a footing member and that the base can have a first portion extending into a channel in the footing member and a second elongated portion extending at an angle to the first portion and outside the channel of the footing. For example, Thomas et al. teaches a

support assembly (22) for supporting a factor built building (column 3, lines 60-63), said support assembly comprising a footing member (24) and a base (44) having a first portion (54) having a first portion extending into a channel (Fig. 4) in the footing (Fig. 4) and a second elongated portion (48) extending at an angle to the first portion and outside the channel of the footing in order to more securely anchor the support assembly. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Miyares et al. to include a footing and a base having a first portion for extending into a channel in the footing and a second portion extending at an angle to the first portion and outside the channel of the footing, such as taught by Thomas et al., in order to create a support assembly that can resist seismic forces and better support a factory built building.

s. Regarding claim 31, the support members may be made of angle steel (Fig. 1; column 4, lines 46-50).

t. Regarding claim 32, the angle steel support members are positioned so the angles of each support member are opposing each other (Fig. 1).

Response to Arguments

2. Applicant's arguments with respect to claims 1-8, 12-14, 16-24 and 28 have been considered but are moot in view of the new ground(s) of rejection which account for applicant's amendments concerning requiring the footing as part of the combination. Applicant's other arguments filed 09/10/2007 have been fully considered but they are not persuasive. Regarding applicant's argument that the four stanchions of Miyares

extend into an apex but are not in a common vertical plane, by nature of extending into an apex the four stanchions extend a common vertical plane, as they all meet at one point. Any vertical plane drawn at the apex would include all of the stanchions. While Miyares does not disclose that this plane is necessarily parallel to a building being supported, the plane can be drawn at any angle from zero to 360 degrees, thereby inherently making the common vertical plane capable of being substantially parallel to a building. Regarding applicant's arguments concerning Fisher not disclose a base having a first portion extending into a channel in the footing, the base has a tab (13) as shown in Fig. 4 that is inherently embedded into a channel in footing (4b). The second portion, which extends at a ninety degree angle to the tab, is the bottom 11c.

Regarding applicant's argument that Fisher does not disclose a plurality of support members extending from the base, members (1) can be seen extending from the base in Fig. 5. Concerning applicant's argument that the base cannot be used as a base and a member connected to members (1), note that the invention includes two bases (11), which can serve two different functions. For example, in Fig. 1 the left member (11) can be considered a base which works in a support assembly in combination with a footing. Extending from the left base member (11) are the support members (1), which are then connected to a *different* member (11), which is inherently capable of connecting to a portion of a building.

Conclusion

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth A. Plummer whose telephone number is (571) 272-2246. The examiner can normally be reached on Monday through Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/J. CHAPMAN/
PRIMARY EXAMINER

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